

247703

2013-423-W

**Daphne.Duke**

**From:** Jocelyn.Boyd  
**Sent:** Wednesday, November 20, 2013 9:39 AM  
**To:** Daphne.Duke  
**Subject:** FW: BJWSA letter to May River residents  
**Attachments:** May River Asset Purchase Agreement.pdf; 0878\_001.pdf; PSC Transfer Request.pdf; May River Cover Letter.docx; May River Rate Memo.docx

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**From:** Tony D'Aguillo [mailto:Tony@waterga.com]  
**Sent:** Tuesday, November 19, 2013 12:44 PM  
**To:** Jocelyn.Boyd  
**Subject:** FW: BJWSA letter to May River residents

Dear Ms. Boyd,

I received your name from Ms. Hannah Majewski at ORS. I am seeking the approval of all of the appropriate agencies for the transfer of the May River Plantation community water system to the ownership of Beaufort Jasper Water & Sewer Authority.

I have enclosed a cover letter for you, as well as copies of some of the previous correspondence and applications, and a copy of the transfer agreement between us and BJWSA. Please let me know if you require any further information, and please let me know what else I can be doing to help this process.

I appreciate your help.

Sincerely,

Tony D'Aguillo

Anthony D'Aguillo

Chief Operating Officer  
Water Utility Management  
Savannah, GA

Direct: 912.721.5580  
Office: 912.352.9339 x5580  
Fax: 912.355.4466



[www.waterutilitymanagement.com](http://www.waterutilitymanagement.com)

**From:** Tony D'Aguillo  
**Sent:** Monday, November 04, 2013 4:30 PM  
**To:** Majewski, Hannah  
**Cc:** Hipp, Dawn; Morgan, Willie; Campbell, Chad; Kirby, Brad  
**Subject:** RE: BJWSA letter to May River residents

Ms. Majewski,

Enclosed, please find a copy of our (now executed) agreement with BJWSA to transfer the May River Plantation CWS to them.

Since our last conversation BJWSA has had a town hall meeting with the residents, and it seems that everyone is in favor as they will be billed lower rates by BJSWSA.

Please add these documents to my previous correspondence and please let me know if there is anything else we may need to provide for you. It is our aim to complete this transfer of ownership as soon as possible, hopefully closing in November or in the early part of December. Please advise.

Thank you again for your help.

Sincerely,

Ton D'Aguillo

Anthony D'Aguillo

Chief Operating Officer  
Water Utility Management  
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**From:** Majewski, Hannah [<mailto:hmajews@regstaff.sc.gov>]  
**Sent:** July 24, 2013 11:19 AM  
**To:** Tony D'Aguillo  
**Cc:** Hipp, Dawn; Morgan, Willie; Campbell, Chad; Kirby, Brad  
**Subject:** RE: BJWSA letter to May River residents

Hi, Tony:

Attached is the utility transfer checklist that will be helpful to May River in properly transferring the system to BJWSA. Please let me know if you have any further questions, and if you will please keep me in the loop on any discussions on the date of the transfer I would appreciate it.

Thanks!  
Hannah Majewski

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**From:** Tony D'Aguillo [<mailto:Tony@waterutilitymanagement.com>]  
**Sent:** Tuesday, July 23, 2013 5:19 PM  
**To:** Majewski, Hannah  
**Subject:** RE: BJWSA letter to May River residents

Yes. I provided them with all of the service addresses we have –which included the vacant lots in the subdivision.

Anthony D'Aguillo

Chief Operating Officer  
Water Utility Management  
Savannah, GA

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Office: 912.352.9339 x5580  
Fax: 912.355.4466



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**From:** Majewski, Hannah [<mailto:hmajews@regstaff.sc.gov>]  
**Sent:** July 23, 2013 4:54 PM  
**To:** Tony D'Aguillo  
**Subject:** RE: BJWSA letter to May River residents

Thanks, Tony! One quick question. Were the vacant lot owners notified as well?

Hannah

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**From:** Tony D'Aguillo [<mailto:Tony@waterutilitymanagement.com>]  
**Sent:** Tuesday, July 23, 2013 4:10 PM  
**To:** Majewski, Hannah  
**Subject:** BJWSA letter to May River residents

Ma'am,

Enclosed is the letter that BJWSA drafted to send to the residents of May River Plantation/Estates. Matthew Brady has been my point of contact with BJWSA so far, but I do not believe he is the 'decision-maker' that is in charge of the actual transfer and adoption of this water system on behalf of BJWSA. At this point, though the letter sounds certain, the May River Water Company (Me), is waiting to work out the details with BJWSA on how/when ownership will be transferred, etc. Obviously, we wish to accomplish this in full compliance with DHEC, the SC PSC, and ORS- and to that end, I very much appreciate your help and that you got in touch with me so quickly.

Thank you for your help, and please do not hesitate to contact me if you require more information, have any questions, or if there is something I need to do.

Sincerely,

Tony D'Aguillo

Anthony D'Aguillo

Chief Operating Officer  
Water Utility Management  
Savannah, GA

Direct: 912.721.5580  
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**May River Water Company**  
PO BOX 13706  
Savannah, GA 31416

11 June 2013

Jocelyn Boyd  
Clerk/Administrator  
Public Service Commission of South Carolina  
101 Executive Center Dr., Suite 100  
Columbia, SC 29210

Dear Ms. Boyd,

I am writing to you regarding the May River Plantation community water system (0750005), located in Bluffton, SC. We have owned and operated this water system since the 1970s, but we have now entered in an agreement to donate this water system to the Beaufort Jasper Water & Sewer Authority (BJWSA).

Enclosed is a copy of the agreement between us and BJWSA, along with a copy of some of our other application materials with DHEC and ORS. I wanted to make sure and alert the PSC to our intentions. Our transfer will take place before the end of this year. This transfer will result in lower rates for the customers currently on the water system.

Please let me know if there is any further information you require, and please assist us in closing before the end of the year by providing us with approval to go forward with this transfer of ownership.

Thank you for your help.

Sincerely,

Anthony A. D'Aguillo  
COO  
May River Water Company

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

ASSET PURCHASE AGREEMENT

This Agreement made and entered into this 1<sup>st</sup> day of November, 2013, by and between May River Water Company, Inc. ("MRWC"), Seller, and Beaufort-Jasper Water and Sewer Authority ("BJWSA"), Buyer.

WHEREAS, MRWC is the owner and operator of certain water service distribution system infrastructure and related property assets located in the May River Estates Subdivision, Town of Bluffton, Beaufort County, South Carolina; and

WHEREAS, MRWC desires to transfer and/or assign all of its infrastructure and related property assets to BJWSA, which desires to acquire same, under the terms and conditions set forth herein.

WHEREAS, MRWC understands that BJWSA must complete a waterline extension in order to connect the MRWC to BJWSA's water system.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, May River Water Company ("MRWC"), Seller, for and in consideration of the sum of One and no/100 Dollar (\$1.00), in hand paid by the said Beaufort-Jasper Water and Sewer Authority ("BJWSA"), Buyer, the receipt of which is hereby acknowledged, and the mutual promises and covenants set forth herein, the parties agree as follows:

1. Assets to be transferred to/acquired by BJWSA.

A list of the specific infrastructure and assets to be transferred by MRWC to BJWSA at closing is attached hereto as Exhibit "A".

2. MRWC obligations prior to closing.

No later than ten (10) days prior to closing of the transaction contemplated herein, MRWC shall provide to BJWSA:

a. All South Carolina Department of Health and Environmental Control ("SCDHEC") documentation, reports and correspondence for the preceding twelve (12) months, of any nature whatsoever, related to the water service distribution system being transferred.

b. All account names and addresses for each customer/account held by MRWC in May River Estates Subdivision for the twelve (12) months preceding this Agreement.

- c. To the extent they exist, all record drawings certified by a licensed engineer related to the subject MRWC system depicting connections, locations of piping, valves, meters, blow-offs, and related infrastructure in the May River Estates Subdivision which constitute the subject of this Agreement. Said record drawings will be field- certified prior to delivery to and acceptance by BJWSA.
- d. Copies of all pertinent easement documents contemplated to be transferred/assigned to BJWSA.
- e. Intentionally Omitted.
- f. Copy of proposed Bill of Sale as to personal property contemplated to be transferred / conveyed to BJWSA.
- g. A statement of the current value of the assets to be transferred to BJWSA
- h. Intentionally Omitted.
- i. Copy of proposed Assignment of Easements.
- j. Order(s) issued by the South Carolina Public Service Commission approving the transfer and conveyance of the water service distribution system contemplated herein.
- k. Copies of proposed corporate resolutions authorizing the transfer and conveyance contemplated herein.
- l. Copy of current Certificate of Existence and/or Certificate of Good Standing as to MRWC issued by the South Carolina Secretary of State or other pertinent governing agency.
- m. Proposed Affidavit of MRWC attesting that the assets to be transferred / assigned are free and clear of all liens and encumbrances, and that there are no restrictions and/or prohibitions whatsoever as to the transfer / assignment contemplated herein.

3. MRWC compliance with SCDHEC Orders / Directives.

MRWC agrees that it will fully comply with all existing Orders and Directives issued by SCDHEC and all other governing agencies in connection with the water service distribution system and assets thereof which are the subject of this Agreement.

4. Right to Terminate / Cancel Agreement.

BJWSA reserves the right to verify full compliance hereof by MRWC and shall have the right, in its sole discretion, to cancel and terminate this Agreement at any time, up to and including the date of closing, in the event BJWSA is not fully satisfied in regard to all matters set forth herein. Notice of termination shall be in writing as set forth herein.

5. Closing.

Closing of the transaction herein, to include the delivery to each party hereto of all executed documents as provided in this Agreement, shall occur on or before ~~October~~ <sup>15</sup> 2013. *Thanks*

6. Commencement of Operations by BJWSA.

BJWSA is extending a waterline to the MRWC in order to connect the MRWC to BJWSA's system. The waterline project is set to be completed no later than December 31, 2013. Once the MRWC has been connected to BJWSA's system, BJWSA will physically disconnect the MRWC's well and begin operation of the water system in May River Estates. BJWSA will notify MRWC two weeks prior to BJWSA disconnecting the well to coordinate the transition to BJWSA operations. Up until that time, the residents of May River Estates will remain MRWC customers and MRWC will continue to operate the water system. If the waterline connection is not completed by Dec. 31, 2013, BJWSA will assume operations of the May River water system on Dec 31, 2013 and the residents of May River Estates will become customers of BJWSA. BJWSA will operate and maintain the well system until the BJWSA waterline connection has been made.

7. MRWC Recovery of Equipment.

At closing, or at such other time as the parties shall agree, MRWC shall be entitled to salvage and recover certain items of equipment located at the well site. Prior to such recovery, MRWC will provide BJWSA with a list of such items and the parties shall agree as to said list prior to recovery / release of any of said items.

8. Pre-Acceptance liability; Indemnification.

Prior to full acceptance of the MRWC system as defined herein,, BJWSA shall not be liable or responsible in any manner or capacity whatsoever as to issues arising with the water service distribution system to be transferred hereunder. MRWC and Water Utility Management, LLC agree to indemnify and hold harmless BJWSA from any claim and/or liability asserted against BJWSA, to include reasonable attorneys fees and costs incurred, prior to full acceptance of said system by BJWSA, except for any claim or liability resulting from the action of BJWSA. BJWSA agrees to indemnify and hold harmless MRWC from any claim and/or liability asserted against MRWC, to include reasonable attorneys fees and costs incurred, on or after full acceptance of said system by BJWSA.

9. Post-Acceptance liability; Indemnification.

BJWSA assumes no liability for any acts, omissions or errors of and/or committed by MRWC, including but not limited to fines, penalties, delinquent accounts payable and the like, except as are specifically set forth in this Agreement. In the event that any issue arises as to any matter, incident and/or account, the liability for which BJWSA has not specifically accepted and/or assumed, and except for any claim or liability resulting from the action of BJWSA, MRWC and Water Utility Management, LLC agree to indemnify and hold harmless BJWSA as to all damages, to include but not limited to reasonable attorneys fees and costs, incurred by BJWSA in regard thereto. This provision shall survive the closing of the transaction contemplated herein.

10. No Warranties; AS/IS Conveyance.

BJWSA acknowledges that MRWC makes no representation or warranty of any kind regarding the condition of the real or personal property described herein. All such property is being conveyed AS/IS WHERE IS, AND WITH ALL FAULTS.

11. Agreement to Cooperate.

Both parties hereto, upon request from one to the other, agree to cooperate with each other and to execute such documentation as may be necessary to facilitate the acquisition of various permits and authorizations required for consummation of the contemplated transaction.

12. No Joint Venture; Relationship of Parties.

The parties agree that this Agreement does not constitute a joint venture as between the parties. Prior to closing, BJWSA shall not have any interest, authority or control as to the operations and assets of MRWC which are the subject of this Agreement, and subsequent to closing MRWC shall have no interest, authority or control as to the operations and assets which are the subject hereof, except as to such matters as are specifically addressed herein.

13. Notices.

Any notice required hereunder shall be directed by certified mail, return receipt, as follows:

As to Seller / Assignor:

May River Water Company, Inc.  
Attn: Mark V. Smith  
621 Stephenson Avenue

Savannah, GA 31405

As to Buyer / Assignee:

Beaufort-Jasper Water and Sewer Authority  
Ed Saxon, PE General Manager  
6 Snake Rd  
Okatie, SC 29909

With copy to:

Erin D. Dean, Esquire  
Tupper, Grimsley & Dean, P.A.  
PO Box 2055  
Beaufort, SC 29901-2055

14. Disputes.

Any disputes arising under this Agreement shall be determined and adjudicated under South Carolina law, with venue in the Beaufort County Court of Common Pleas.

15. Full Agreement.

This instrument constitutes the full and complete agreement as between the parties hereto. Any amendment or revision shall be in writing and signed by both parties.

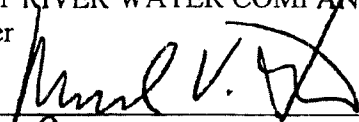
WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

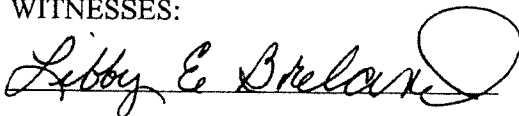
MAY RIVER WATER COMPANY, INC.,  
Seller

By:

Its:

  
President

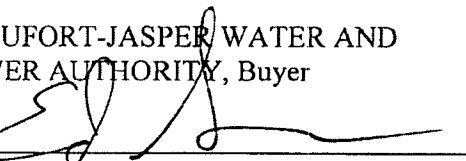
WITNESSES:

  
\_\_\_\_\_

BEAUFORT-JASPER WATER AND  
SEWER AUTHORITY, Buyer

By:

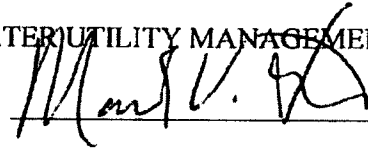
Its:

  
General Manager

For purposes of Sections 7 and 8 only:

WATER UTILITY MANAGEMENT, LLC

By:



Member

## EXHIBIT 'A'

### Assets to be Transferred

That certain permanent and exclusive easement and right of way, including the perpetual rights to enter upon the real estate hereinafter described, and including the right to construct, maintain, relocate, and repair underground wells, pipelines, and equipment for the purposes of conveying the services of the Grantee, on, over, under, and across and through the lands hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location or relocation of said well and pipelines, and further the right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction, and maintenance of said well, pipelines, equipment and water distribution system. Grantee further has the right to construct and maintain a fence surrounding the easement area.

The easement and right of way hereby granted to the Grantee covers a parcel of land shown and designated as "well site" on that certain plat of May River Plantation, Phase II, prepared by Leigh Gignilliat, R.L.S. Number 1654, appearing of record at Plat Book 21, Page 17, in the Office of the Clerk of Court for Beaufort County, South Carolina, which map is incorporated herein by specific reference. Said well site parcel and access road is also more particularly shown and designated as a "Well Site" and 50' unnamed road contiguous to said well site and connecting said well site to a 120' Private Road known as May River Drive, as more particularly shown and designated in easement appearing of record at Deed Book 2924, Pages 1764-1767, in the Office of the Clerk of Court for Beaufort County, South Carolina and incorporated herein by specific reference.

Said Easement having been conveyed by the May River Plantation Homeowner's Association, Inc. to South Atlantic Utilities, Inc., by agreement dated November 23, 2009, and recorded in Deed Book 2924, Page 1764, in the Office of the Clerk of Court for Beaufort County, South Carolina.

AND ALSO,

All of the equipment and fixtures owned by May River Water Company, Inc. that is used in connection with the operation of the May River Estates Subdivision water system (the "Water System") including, without limitation,:

- (a) All permits issued by governmental bodies for the operation of the Water System which by laws and regulations of said governmental bodies are transferable;
- (b) All easements or rights of use held by May River Water Company, Inc. and used in the operation of the Water System;
- (c) All pipes, pumps, electric boxes, fittings, meters, chlorinating equipment used in connection with the Water System; and

(d) All easements and rights of use of May River Water Company, Inc. necessary for the distribution lines installed or to be installed in the May River Estates Subdivision, and all water distribution lines installed within said subdivision.

AND ALSO, all of May River Water Company, Inc.'s rights and interests in and to any future payments or proceeds in connection with the Water System, including any connection or tap in fees, but excluding any accounts receivable as of \_\_\_\_\_ [date of closing].



**May River Water Company**  
**PO BOX 13705**  
**Savannah, GA 31416**

28 May 2013

Ed Saxon, PE  
General Manager, BJWSA  
6 Snake Rd.  
Okatie, SC 29909

Dear Ed,

Enclosed, please find the requested information pertaining to the May River water system. As we discussed, we are interested in contributing the system to Beaufort Jasper and you indicated that we could remove our tank, pump and well house equipment after tying the system into your main line at the entrance of the subdivision.

Please note that the public service commission rate schedule provides for us to collect an availability fee for homes which have drilled their own wells. We presently have over \$6,700.00 in uncollected availability fees. We need to agree on a strategy for collecting these fees.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Mark V. Smith  
President



**May River Water Company**  
**PO BOX 13705**  
**Savannah, GA 31416**

28 May 2013

Ed Saxon, PE  
General Manager, BJWSA  
6 Snake Rd.  
Okatie, SC 29909

Dear Mr. Saxon,

The purpose of this letter is to confirm rate information for May River Plantation, located in Bluffton, SC. May River Water Company is currently charging the PSC-approved rates for water service in May River Plantation as follows:

Base rate	\$60.60 bi-monthly*
Overage	\$4.50/ 1,000 gallons for 0 – 8,000 gallons \$5.50/ 1,000 gallons for 8,001 – 12,000 gallons \$4.50/ 1,000 gallons over 12,000 gallons
Availability	\$60.00 bi-monthly

\*because the approved availability fee was so close to our approved base rate, we are currently charging only \$60.00 bi-monthly as a base rate. This allows us to specify one rate table for the water system, and allows it us to charge the availability customers as customers with no water usage.

We bill on a bi-monthly basis, with billing occurring on the first week of every even month. These rates were effective as of April 1, 2011.

You may call Tony D'Aguillo at (912)721-5580 with any questions.

Sincerely,

Mark V. Smith



## APPLICATION FOR TRANSFER OF OPERATING PERMIT FOR A PUBLIC WATER SYSTEM

### SECTION 1: SYSTEM INFORMATION

System Name: May River Plantation CWS Current Number of Taps: 27

DHEC System ID Number: 0750005 System Type: Community

### SECTION 2: PROPOSED NEW OWNER

Owner Name: Beaufort-Jasper WSA Proposed Operator Contact: Ed Saxon, PE, General Manager

Address: 6 Snake Rd  
Okatie, SC 29909

Address: 6 Snake Rd  
Okatie, SC 29909

Phone Number: (843) 987-9249

Phone Number: (987) 9249

Fax Number: (843) 987-9224

Fax Number: ( )

E-Mail Address: eds@bjwsa.org

E-Mail Address: eds@bjwsa.org

### SECTION 3: DEMONSTRATION OF VIABILITY

Before the Department can approve the transfer of an operating permit, the applicant must first demonstrate that the water system will be managed to ensure its long-term viability. The Department may request the applicant to submit a business plan to demonstrate that the system will be viable under the new ownership. The applicant should contact the Department for guidance concerning this demonstration prior to submitting this application for the transfer of the operating permit.

☐ Demonstration of viability is attached -N/A

### SECTION 4: SIGNATURES

I hereby make application for a Transfer of the above referenced System and its Operating Permit. I have reviewed the State Primary Drinking Water Regulations, the State Safe Drinking Water Act, and agree to the requirements thereof, including demonstration of viability, and to the admission of properly authorized persons at all reasonable hours for the purpose of sampling and inspection.

Proposed Owner's Signature: [Signature] Date: 10/1/13

Name (Printed): Ed Saxon, PE Title: General Manager

I concur with the transfer of this System and its Operating Permit to the above party, and understand that this may not be the only approval required in this transaction. The System will not be transferred prior to Department approval. The Department will be notified in writing of the actual transfer.

Current Owner's Signature: [Signature] Date: 10/5/2013

Name (Printed): Anthony D'Agella Title: COO